

**ASSEMBLY BILL**

**No. 2112**

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**Introduced by Assembly Member Karnette**

February 17, 2006

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An act to amend Sections 91004 and 91007 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 2112, as introduced, Karnette. Political Reform Act of 1974: civil actions.

Under existing provisions of the Political Reform Act of 1974, a person who violates the reporting requirements specified in the act or makes or receives a contribution, gift, or expenditure in violation of specified provisions of the act is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction. Under the act, before filing a civil action, a person is required to first file with the civil prosecutor a written request for the civil prosecutor to commence the action. Under the act, if the civil prosecutor indicates an intent to file a civil action and files suit within 120 days from receipt of the written request to commence the action, no other action may be brought by the requesting person unless the action brought by the civil prosecutor is dismissed without prejudice.

This bill would limit the number of these civil filings that could be made by an individual or group to 10 within the previous 12-month period. The bill would also require that any person requesting that the prosecutor initiate a civil action include an affirmation that a copy of the written request has been provided to the person against whom the action is being sought. This bill would also require a court, in setting the amount of a judgment, to consider any rules or regulations of the Fair Political Practices Commission for similar violations. The bill

would also prohibit a civil action by a requesting person if the commission issues an administrative order or publishes a declaration of no violation

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a  $\frac{2}{3}$  vote.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 91004 of the Government Code is  
2 amended to read:

3 91004. Any person who intentionally or negligently violates  
4 any of the reporting requirements of this title shall be liable in a  
5 civil action brought by the civil prosecutor or by a person  
6 residing within the jurisdiction for an amount not more than the  
7 amount or value not properly reported. *In exercising its*  
8 *discretion to set the amount of a judgment under this section, the*  
9 *court shall take into consideration any rules and regulations of*  
10 *the commission applicable to similar violations.*

11 SEC. 2. Section 91007 of the Government Code is amended  
12 to read:

13 91007. (a) Any person, before filing a civil action pursuant to  
14 Sections 91004 and 91005, must first file with the civil  
15 prosecutor a written request for the civil prosecutor to commence  
16 the action. The request shall include a statement of the grounds  
17 for believing a cause of action exists, *and shall include an*  
18 *affirmation that a copy of the written request has been provided*  
19 *to the person or persons against whom a cause of action is said*  
20 *to exist. No person, or group of persons acting in concert, shall*  
21 *file more than 10 of these written requests within the previous*  
22 *12-month period.* The civil prosecutor shall respond to the person  
23 in writing, indicating whether he or she intends to file a civil  
24 action.

25 (1) If the civil prosecutor responds in the affirmative and files  
26 suit, *or the commission issues an order or publishes a*

1 *declaration of no violation pursuant to Section 83116*, within 120  
2 days from receipt of the written request to commence the action,  
3 no other action may be brought unless ~~the~~ *an* action brought by  
4 the civil prosecutor is dismissed without prejudice as provided  
5 for in Section 91008.

6 (2) If the civil prosecutor responds in the negative within 120  
7 days from receipt of the written request to commence the action,  
8 the person requesting the action may proceed to file a civil action  
9 upon receipt of the response from the civil prosecutor, *provided*  
10 *that the person against whom a cause of action is asserted has*  
11 *actually and timely received the notice required in subdivision*  
12 *(a), and further provided that the person filing the action, or*  
13 *persons acting in concert with that person, has not filed 10 or*  
14 *more written requests pursuant to this section within the previous*  
15 *12-month period*. If, pursuant to this subdivision, the civil  
16 prosecutor does not respond within 120 days, the civil prosecutor  
17 shall be deemed to have provided a negative written response to  
18 the person requesting the action on the 120th day and the person  
19 shall be deemed to have received that response.

20 (3) The time period within which a civil action shall be  
21 commenced, as set forth in Section 91011, shall be tolled from  
22 the date of receipt by the civil prosecutor of the written request to  
23 either the date that the civil action is dismissed without prejudice  
24 or the date of receipt by the person of the negative response from  
25 the civil prosecutor, but only for a civil action brought by the  
26 person who requested the civil prosecutor to commence the  
27 action.

28 (b) Any person filing a complaint, cross-complaint, or other  
29 initial pleading in a civil action pursuant to Section 91003,  
30 91004, 91005, or 91005.5 shall, within 10 days of filing the  
31 complaint, cross-complaint, or initial pleading, serve on the  
32 commission a copy of the complaint, cross-complaint, or initial  
33 pleading or a notice containing all of the following:

- 34 (1) The full title and number of the case.  
35 (2) The court in which the case is pending.  
36 (3) The name and address of the attorney for the person filing  
37 the complaint, cross-complaint, or other initial pleading.  
38 (4) A statement that the case raises issues under the Political  
39 Reform Act of 1974.

1 (c) No complaint, cross-complaint, or other initial pleading  
2 shall be dismissed for failure to comply with subdivision (b).  
3 SEC. 3. The Legislature finds and declares that the provisions  
4 of this act further the purposes of the Political Reform Act of  
5 1974 within the meaning of subdivision (a) of Section 81012 of  
6 the Government Code.

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